

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**FTS DISTRIBUTORS OF CALIFORNIA,
a California Corporation, AMERICAN
AUTOMOTIVE SECURITY PRODUCTS, INC.,
a Florida Corporation, and HAOLEFIED
TRADING, LTD., a British Virgin Islands Company,**

Plaintiffs,

vs.

No. CIV-06-704 RB/WDS

**SANDIA TOBACCO MANUFACTURERS, INC.,
a New Mexico Corporation,,**

Defendants.

ORDER

THIS MATTER comes before the Court on Defendants' Motion for Protective Order and for Sanctions (Doc. No. 9). Plaintiffs' counsel issued a subpoena out of the United States District Court for the Northern District of Oklahoma to an officer of the Defendant corporation. This was done without notice and without leave of court prior to the Rule 16 Scheduling Conference. Plaintiffs allege a business emergency necessitated their action. The recipient of the subpoena did not comply and the subpoena has apparently been withdrawn by Plaintiffs.

Regardless of the situation notice should be given before the issuance of any subpoena. Plaintiffs are admonished for failing to have given notice. Given that discovery is now underway, no protective order is necessary.

IT IS THEREFORE ORDERED THAT Defendants' Motion for Protective Order and for Sanctions (Doc. No. 9) is denied as moot.



**W. DANIEL SCHNEIDER
United States Magistrate Judge**